

AMENDED IN SENATE JUNE 11, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 104

Introduced by Assembly Member Lowenthal

January 10, 2003

An act to add Section 1365.2 ~~of~~ to the Civil Code, relating to common interest developments.

LEGISLATIVE COUNSEL'S DIGEST

AB 104, as amended, Lowenthal. Common interest developments: account books.

The Davis-Stirling Common Interest Development Act defines and regulates common interest developments. The act requires that an association manage the common interest development and that the association make available specified financial documents to the members of the association.

This bill would require an association to make the *accounting books of account and records* of the association available for inspection and copying by a member of the association, or the member's designated representative, ~~at any reasonable time, in a location within the common interest development as specified.~~ *The bill would permit the association, under certain circumstances, to satisfy these requirements by providing copies of the requested records by mail. The bill would permit the association to withhold or redact information from the accounting books and records when the release of the information is reasonably likely to lead to identity theft, fraud in connection with the association, or is privileged by law, with specified exceptions regarding compensation of employees, vendors, and contractors. The bill would*

prohibit the sale or commercial use of association's accounting books and records. The bill would permit the member to bring an action to enforce the right to inspect and copy from the ~~books of account~~ *accounting books and records*, and would require a court to award the member reasonable costs and expenses, as specified, if it finds that the association unreasonably withheld access to the *books and records*. The bill would also permit the court to assess a civil penalty of up to \$500 for each violation.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1365.2 is added to the Civil Code, to
2 read:
3 1365.2. (a) (1) The association shall make the ~~books of~~
4 ~~account~~ *accounting books and records* of the association available
5 for inspection and copying by a member of the association, or the
6 member's designated representative, ~~at any reasonable time, in a~~
7 ~~location within the common interest development.~~ *as provided by*
8 *this section.*
9 (2) A member of the association may designate another person
10 to inspect and copy the accounting books and records on the
11 member's behalf. The member shall make this designation in
12 writing.
13 (b) (1) The association shall make the accounting books and
14 records available for inspection and copying in the association's
15 business office within the common interest development.
16 (2) If the association does not have a business office within the
17 development, the association shall make the accounting books and
18 records available for inspection and copying at a place that the
19 requesting member and the association agree upon.
20 (3) If the association and the requesting member cannot agree
21 upon a place for inspection and copying pursuant to paragraph
22 (2), or if the requesting member submits a written request directly
23 to the association for copies, the association may satisfy the
24 requirement to make the accounting books and records available
25 for inspection and copying by mailing copies of the requested
26 records to the member by first class mail within 10 days of
27 receiving the member's request. The association may bill the

1 *requesting member for its actual, reasonable costs for copying and*
2 *mailing requested documents. The association shall inform the*
3 *member of the copying and mailing costs before sending the*
4 *requested documents.*

5 *(c) (1) Except as provided in paragraph (2), the association*
6 *may withhold or redact information from the accounting books and*
7 *records for any of the following reasons:*

8 *(A) The release of the information is reasonably likely to lead*
9 *to identity theft. For the purposes of this section, ‘identity theft’*
10 *means the unauthorized use of another person’s personal*
11 *identifying information to obtain credit, goods, services, money, or*
12 *property.*

13 *(B) The release of the information is reasonably likely to lead*
14 *to fraud in connection with the association.*

15 *(C) The information is privileged under law.*

16 *(2) The association may not withhold or redact information*
17 *concerning the compensation paid to employees, vendors, or*
18 *contractors.*

19 *(d) (1) A person may not sell or use for a commercial purpose*
20 *the accounting books and records of an association or any*
21 *information from them.*

22 *(2) This section may not be construed to limit the right of an*
23 *association to damages for misuse of information obtained from*
24 *the accounting books and records pursuant to this section or to*
25 *limit the right of an association to injunctive relief to stop the*
26 *misuse of this information.*

27 *(3) An association shall be entitled to recover reasonable costs*
28 *and expenses, including reasonable attorney’s fees, in a successful*
29 *action to enforce its rights under this section.*

30 *(e) A member of an association may bring an action to enforce*
31 *the member’s right to inspect and copy from the books of account*
32 *the accounting books and records of the association. If a court*
33 *finds that the association unreasonably withheld access to the*
34 *books of account accounting books and records, the court shall*
35 *award the member reasonable costs and expenses, including*
36 *reasonable attorney’s fees, and may assess a civil penalty of up to*
37 *five hundred dollars (\$500) for each violation.*